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February 28, 1997

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

Re: Ex Parte Presentation: CC Docket No. 95-20

Dear Mr. Caton:

On Thursday February 27, 1997, Bill Warner of IBM Global Systems, John Lynn of Electronic Data Systems ("EDS"), Frank Krogh of MCI, and the undersigned, on behalf of the Information Technology Association of America ("ITAA"), met with Joseph M. Di Scipio, Andrea Kearney, Blaise A. Scinto, and Lisa Sockett of the Common Carrier Bureau's Policy and Program Planning Division.

The issues discussed at the meeting are addressed in ITAA's previously filed comments and the enclosed handout, which was distributed at the meeting. In accordance with Section 1.1206(a) of the Commission's Rules, two copies of this written submission are attached to this letter for inclusion in the public record. Due to the lateness of the hour at which this meeting concluded, this letter is being filed on the next business day, Friday, February 28, 1997.

Please contact the undersigned if you have any questions.

Sincerely,

Jonathan Jacob Nadler BJM
Jonathan Jacob Nadler

Enclosures

cc: Joseph M. Di Scipio
Andrea Kearney
Blaise A. Scinto
Lisa Sockett

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INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA

THE COMMISSION SHOULD ADOPT A SINGLE, EFFECTIVE SET OF RULES GOVERNING BOC PROVISION OF ENHANCED SERVICES

- **The Commission Should Limit the Computer III Remand Proceeding to the Specific Issue Presented by the Ninth Circuit's Remand**
 - This proceeding should address only the question of whether to replace the Computer II BOC structural separation requirements with non-structural safeguards
 - The Commission bears the burden of justifying any decision to lift structural separation
- **There is No Basis to Eliminate the BOC Structural Separation Requirement**
 - Congress' adoption of Section 272 strongly tips the balance in favor of structural separation
 - * Congress has concluded that -- for the foreseeable future -- structural separation is necessary to ensure full and fair competition when the BOCs participate in competitive markets; requiring structural separation in all segments of the information services market, therefore, would provide significant benefits
 - * Because Section 272 requires the BOCs to provide inter-LATA information services through structurally separate affiliates, the cost of extending this requirement to the intra-LATA information services market would be minimal
 - * Pursuant to Section 274, the BOCs must provide those intra-LATA information services that constitute electronic publishing through a separate affiliate
 - Open Network Architecture ("ONA") has failed; it does not justify the elimination of structural separation
 - * ONA, as adopted, has not resulted in the "fundamental unbundling" necessary to prevent BOC access discrimination
 - * The Commission's decision to require ESPs that want to purchase BSEs to pay carrier access charges has rendered ONA unaffordable
 - The Commission's adoption of other non-structural safeguards does not provide a sufficient basis to eliminate structural separation

- **The Commission Should Modify its Computer II Structural Separation and Non-Discrimination Rules to "Mirror" the Rules Adopted to Implement Section 272**
 - Section 272 addresses the BOCs' provision of inter-LATA information services; nothing in the Act precludes the Commission from extending these rules to intra-LATA information services
 - Different regulatory regimes for inter-LATA and intra-LATA information services would:
 - * harm competition in the intra-LATA information services market;
 - * create incentives for inefficient deployment of BOC information services; and
 - * require significant administrative resources to determine whether a given information service is inter-LATA or intra-LATA
- **The Commission's Pending Inquiry on the Implications of Information Service and Internet Usage Provides the Appropriate Forum to Consider Other Issues Regarding the Enhanced Service Marketplace; These Include:**
 - Ensuring that ESPs retain the ability to access the PSTN pursuant to a rate structure that is appropriate for packet switched technology
 - Creating incentives for the ILECs to deploy technology that will allow for the efficient transport of data services
 - Facilitating competitive entry of additional carriers that will provide data transmission services
 - Allowing all users to purchase unbundled network elements, including sub-loop elements, at cost-based prices
 - Requiring ILECs to permit collocation in their central offices of equipment (such as servers) used to provide enhanced services
 - Preserving the non-regulated status of interstate enhanced services and preempting, to the extent permitted by the Act, state regulation of intrastate enhanced services